

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

STANDARD IRON WORKS, on behalf  
of itself and all others  
similarly situated,

Plaintiffs,

-vs-

ARCELORMITTAL, et al.,

Defendants.

No. 08 C 5214

Chicago, Illinois

October 30, 2008

11:50 a.m.

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE JAMES B. ZAGEL

APPEARANCES:

For the Plaintiffs:

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1 (Proceedings heard in open court.)

2 THE CLERK: 2008 C 5214, Standard Iron Works versus  
3 Arcelormittal, et al.

4 MR. KANNER: Good morning, your Honor.

5 THE COURT: I start from that end. You might not  
6 have known that. Okay.

7 MR. STELZER: Gregory Stelzer, your Honor, local  
8 counsel for Defendant AK Steel Holding Company.

9 MR. KLEVORN: Andrew Klevorn on behalf of Gerdau  
10 Ameristeel.

11 MS. METTS: Amanda Metts for Steel Dynamics.

12 MR. QUINN: Jonathan Quinn for defendant United  
13 States Steel Corporation.

14 MR. MAROVITZ: Andy Marovitz for defendant  
15 Arcelormittal USA.

16 MR. KANNER: Good morning, your Honor. Steve  
17 Kanner on behalf of Standard Iron Works and other plaintiffs.

18 MR. BLACK: Allen Black, Fine, Kaplan & Black in  
19 Philadelphia, on behalf of Standard Iron Works and the  
20 plaintiffs.

21 MR. DUNCAN: Good morning, your Honor. Matthew  
22 Duncan, Fine, Kaplan & Black, for the plaintiffs.

23 MR. HANSEN: Mark Hansen, Kellogg Huber, for the  
24 plaintiffs, your Honor. Good morning.

25 MR. EHLMAN: And Todd Ehlman for defendant Nucor

1 Corporation.

2 THE COURT: Okay.

3 MR. KANNER: Good morning, your Honor. Steve  
4 Kanner, Freed, Kanner, London & Millen. We're here on behalf  
5 of plaintiffs with two motions this morning. The first is  
6 for a case management order. The other is for the motion to  
7 appoint interim class counsel and liaison counsel.

8 To address those matters, your Honor, I'd like to  
9 present the two prospective appointees as interim class  
10 counsel. And to my left is Allen Black of Fine, Kaplan &  
11 Black in Philadelphia. I'm quite proud to introduce him.  
12 He's a personal friend and an exceptional lawyer. And to his  
13 level is Mark Hansen from Kellogg, Huber, Hansen, Todd, Evans  
14 & Figel of Washington, D.C., also an exceptional anti-trust  
15 lawyer.

16 And with that, your Honor, if you'd care to hear  
17 argument on the motion for appointment of class counsel,  
18 which has been briefed, we're happy to do that.

19 THE COURT: A few sentences are fine.

20 MR. BLACK: I'll make it less than a few sentences,  
21 your Honor. I believe you know Mr. Hansen from the --

22 THE COURT: From a very long case.

23 MR. BLACK: I hope you have happy memories of that.  
24 And I have not had the honor of appearing before you.

25 Both motions are uncontested, your Honor, and

1       rather than argue or take up your time, I would just like to  
2       offer, on behalf of all of us, to answer any questions you  
3       might have.

4               THE COURT: Anyone from the other side wants to  
5       address this?

6               MR. MAROVITZ: Your Honor, just so the record is  
7       clear, Andy Marovitz for Arcelormittal USA. We have no  
8       position whatsoever on the motion for appointment of interim  
9       class counsel. We will at the appropriate time address any  
10      motion for class certification that arises.

11              THE COURT: Yes. In my reading of these papers, I  
12      understand that we are doing what we used to call lead  
13      counsel, and now, to avoid insulting other lawyers, liaison  
14      counsel, and we're doing this before a class has been  
15      certified, and, basically, I'm being told it's probably a  
16      good idea to do in this case because I have no competitors  
17      out there for the title of liaison counsel.

18              I took a look at this, and it's fine with me. So I  
19      will make the appointment of interim liaison counsel bearing  
20      in mind that you do run the risk that some unquestionably  
21      brilliant competitor will come forward and seek to replace  
22      you, but you don't look too worried about that.

23              MR. BLACK: We're not too worried.

24              THE COURT: Okay.

25              MR. BLACK: We'll be less worried after you sign

1 the order.

2 THE COURT: Right.

3 Anything else we have to deal with?

4 Somebody going to actually tell me a little about  
5 the case? It's always helpful, I think.

6 MR. BLACK: Sure. The complaint alleges a  
7 conspiracy to restrict production in the steel industry in  
8 the period from -- starting in 2005 until now as far as we  
9 know with the concomitant natural result of driving prices up  
10 and having been done for that purpose.

11 If you look at the complaint, it really lays out  
12 the factual basis for those allegations in great detail, and  
13 that's really the essence of the case. It's, we think,  
14 somewhat similar to the Linerboard case that was in the Third  
15 Circuit a while ago, and that's the kernel of it.

16 THE COURT: Right. Do you have some kind of  
17 estimate as to what kind of effort it's going to take to do  
18 the discovery in this case?

19 MR. BLACK: Quite substantial, I think.

20 THE COURT: Has anybody thought about a possible  
21 timeline for this case?

22 MR. BLACK: I think we've begun to think about  
23 that, but, you know, we're talking, I'm sure, something like  
24 18 months or a couple years probably. We haven't really  
25 talked about it. Does that seem like something that makes

1 sense, Andy?

2 MR. MAROVITZ: Your Honor, I think that may be  
3 slightly premature.

4 We spent a good deal of time over the past weeks  
5 discussing organization of the cases, so there are several  
6 cases in front of you. Right now, there are at least four  
7 that have been affirmatively reassigned. There is one  
8 indirect case that was part of your original order that, for  
9 some reason, has not been reassigned to the Court. That is  
10 Supreme Auto Transport, and the executive -- the case number  
11 is 08 C 5468. It's before Judge Castillo. And it was part  
12 of the original joint motion, but it just hasn't landed here  
13 yet. My suspicion is it's simply an oversight by the clerk,  
14 but I wanted to point that out for the Court.

15 There also are a couple other more recent cases  
16 that have been filed that will land here. So we've spent  
17 some time organizing those.

18 Part of the case management order, number one, that  
19 we presented the Court for purposes of bringing all the cases  
20 together provides a time until February 6th for the  
21 defendants to answer, move or otherwise respond. That was a  
22 negotiated timeline that includes the -- if the Court enters  
23 it, the waiver of service of summons on some defendants -- on  
24 all defendants, including some that are overseas.

25 So we intend to spend over the next several weeks

1 negotiating things like preservation order that's already --  
2 discussions have already begun on that, protective order, et  
3 cetera, to get everything lined up because I think it's  
4 premature at this point early in the case to figure out  
5 exactly what discovery will be necessary.

6 It's our view, of course, that we may likely be  
7 moving to dismiss, in which case our position will be no  
8 discovery is necessary unless part of the motion is denied.

9 MR. HANSEN: Your Honor, if I might, I think it's  
10 an excellent question as to the timeline. If your Honor were  
11 inclined to sign the order we've presented and allow us to  
12 take the position we believe we should take, we think we  
13 could negotiate with Mr. Marovitz and his colleagues and come  
14 back to your Honor in two weeks, three weeks with a better  
15 idea of the next steps going forward.

16 We've negotiated with them and agreed upon a  
17 response date as Mr. Marovitz correctly states, and you'd  
18 have to be blind not to see that they're all going to try to  
19 consider motions to dismiss. That said, we expect to make  
20 progress in the case, and we expect to move the case forward  
21 expeditiously.

22 So it might be helpful if the Court were to set  
23 another conference now with the direction to all counsel to  
24 come back and have a better plan as to what's going to happen  
25 going forward.



1 THE COURT: My inclination is to do that, and my  
2 inclination is -- and, basically, you seem to have asked for  
3 this, and that is to deal with this with respect to the  
4 master docket in roughly the same way we deal with MDL cases,  
5 and for better or for worse, I have a lot of familiarity with  
6 MDL cases. So we can do that.

7 I thought the stuff that was proposed to me was  
8 fine, so I'm thinking the 21st of November. I'm in  
9 Washington the 18th, 19th and 20th of that week, but I'll be  
10 back here on the 21st, and we can talk then.

11 In the interim, you can act as though I have  
12 actually affixed my signature to the case management order  
13 and to the appointment of interim counsel -- interim liaison  
14 counsel.

15 Anything else?

16 MR. MAROVITZ: What time on the 21st would you like  
17 us?

18 THE COURT: The noon hour, so if we have to take  
19 some time, we'll be able to do it.

20 MR. KANNER: Your Honor, as a minor housekeeping  
21 matter, while I believe Mr. Hansen is a member of this  
22 District Court and authorized to practice before it, the  
23 Fine, Kaplan firm has filed their pro hac motions, but there  
24 has been no rulings thus far.

25 THE COURT: Leave is granted.

1 MR. KANNER: Thank you.

2 MR. MAROVITZ: Judge, one quick question. Would  
3 you like for defense counsel to appear in each separate case  
4 that's being consolidated in the master case or if we simply  
5 appear in the main consolidated case, would that be  
6 sufficient?

7 THE COURT: Appearance in the main consolidated  
8 case will be sufficient. If it turns out that I'm wrong  
9 about this, it's not a particularly difficult problem to  
10 repair.

11 Thanks, counsel.

12 MR. MAROVITZ: Thank you very much.

13 MR. HANSEN: Thanks, your Honor.

14 (Which were all the proceedings heard.)

15 CERTIFICATE

16 I certify that the foregoing is a correct transcript  
17 from the record of proceedings in the above-entitled matter.

18  
19 */s/Mary C. Kelly*

*November 12, 2008*

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\_\_\_\_\_  
Mary C. Kelly  
Contract Court Reporter

\_\_\_\_\_  
Date

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